ORDINANCE NO. 12-45

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REVISING THE FINAL HIALEAH, FLA., LAND DEVELOPMENT CODE TO REFLECT PERTINENT CHANGES TO THE HIALEAH CODE AND RELEVANT CHANGES IN STATE LAW ENACTED SINCE THE DATE OF THE LAST REVISION, INCLUDING, BUT NOT LIMITED TO, AMENDING REGULATION NO. 1. LAND DEVELOPMENT PROCEDURES, LAND DEVELOPMENT REGULATION NO. 7 ENTITLED "SIGN REGULATION" AND LAND DEVELOPMENT REGULATION NO. 10. SUBDIVISION OF LAND; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE HIALEAH, FLA., LAND DEVELOPMENT CODE AND THE HIALEAH CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of August 8, 2012 recommended approval of this ordinance; and

WHEREAS, the purpose and intent of this ordinance is to revise the Hialeah, Fla., Land Development Code to reflect changes in the planning regulations and policies, Hialeah Code and Florida law enacted since the last revision pursuant to Hialeah, Fla., Ordinance 11-73 (Oct. 14, 2011); and

WHEREAS, the incorporation of these changes are required so that provisions of the Hialeah, Fla. Land Development Code correspond to the existing Hialeah Code provisions to provide a uniform set of land development regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Hialeah, Fla., Land Development Code as incorporated in the Code of Ordinances of the City of Hialeah, Florida is hereby revised and amended to read as follows:

PART III

LAND DEVELOPMENT CODE

* * *

REGULATION NO. 1 LAND DEVELOPMENT PROCEDURES

* * *

Sec. 1-8. Tenant certificates.

The Elderly Homeowners Relief Act authorizes, upon issuance of a tenant certificate, the establishment of one rental occupancy within a detached single-family residence or garage or accessory building of a single-family home, where the owner or co-owner is at least 55 years old and the property owner currently resides and uses the property as homestead. The procedures are provided in section 98-416 of the Code.

Section 1-~~8~~ 9. Intergovernmental coordination element.

* * *

REGULATION NO. 7 SIGN REGULATION

* * *

Sec. 7-7. Temporary signs.

(a) *Types of signs.* Banner, real estate, construction, and political campaign signs are considered temporary.

(b) *Duration and removal.*

(1) *Temporary signs within area and height limitations.* All temporary signs conforming to the area and height restrictions must be removed or replaced within ~~180~~ 90 days of the date of installation, except as provided in this ~~chapter~~ regulation.

(2) *Temporary signs exceeding area and height limitations.* Any person who intends to install a

temporary sign exceeding in the area and height limitations set forth in this ~~chapter~~ regulation, but in no event more than 100 percent of such limitations, must apply for and obtain a temporary sign permit prior to installation. All temporary sign permit applications must be accompanied by a fee of $10.00. Such applications shall not include the submission and review of site plans. A temporary sign requiring a temporary sign permit shall be permitted for a time period not to exceed ~~90~~ 45 days from the date the temporary sign is situated on the property. Removal is required if the sign has not been removed or replaced after ~~90~~ 45 days, except as provided in this ~~chapter~~ regulation.

(3) *Bond required.* If a person installs or causes to install in excess of 50 temporary signs, such person shall post a bond in the principal sum of $150.00 or the monetary amount of $150.00 as security for the recovery of expenses in connection with the city removing noncompliant signs. The bond or acceptance of monetary funds as security agreement shall contain language that authorizes the city to use all or any part of the principal of the bond or money retained to cover its expenses in removing the signs after notice to remove the signs has been provided and the signs have not been removed prior to time period provided in the notice or as provided in this chapter. The forfeiture of the bond or the withdrawal of the monetary funds retained as security does not prevent the city from collecting additional funds through citation or notice of violation to recover costs or penalties in connection with the maintenance and removal of unlawful temporary signs.

(c) *Restrictions.* Restrictions on temporary signs shall be as follows:

* * *

(3) *Political campaign signs:*

* * *

Time limit Political signs are subject to subsection 7-7(b) hereof; provided, however, that regardless of the date of installation, signs must be removed within 30 days after one of the following events: withdrawal date of candidacy, elimination date of candidacy or date of election to office.

Bond requirement; exemption: Candidates for public office who are exempt from payment of the election assessment pursuant to section 99.093(2), F.S. shall also be exempt from bond requirements.

Violations: Persons responsible: The city shall treat political candidates as primarily responsible for unlawful signs referenced in section 7-19. The city shall proceed administratively or in court against the political candidate or other legal entity that installs or maintains or causes an unlawful sign to be maintained or installed prior to proceeding against the property owner.

* * *

Sec. 7-18. Billboard replacement program.

(a) *Purpose.* The purpose and intent of the billboard replacement program is to allow traditional and/or digital billboards within city boundaries facing the Palmetto Expressway, State Road 112 and facing that portion of I-75 that extends in an east-west direction, to substitute unsightly and unsafe roof-top or traditional billboards that possess legal nonconforming status, notwithstanding the prohibition of such signs as found elsewhere in this article. Such billboards facing the Palmetto Expressway, State Road 112 and facing that portion of I-75 that extends in an east-west direction. The billboard to be replaced in an existing location or a new replacement location may include LED sign face or faces subject to the compliance with the provisions of this section and the reduction of sign faces on the existing or replaced sign through a ratio of two sign faces for each LED sign face for traditional billboards.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

Automatic changing or digital billboard sign means a billboard that utilizes a mechanism to allow advertisements to rotate in succession.

Billboard means an off-site large outdoor structure that is predominately a sign in which the message or advertisement comprises an activity or business that is not operating or being conducted on the property in which the billboard is located. The words "billboard" and "sign" as used in this section are interchangeable since the regulations concern only billboards.

Embellishments mean a physical or structural extension to the billboard that enhances, emphasizes or directs attention to the sign message.

Grade means crown or highest elevation of the adjacent road.

Mobile billboard means a billboard that includes a sign, installed on or attached to a vehicle, or connected to a vehicle as a trailer, that is capable of transport. Mobile billboards cannot be parked in an open parking lot, parking space or open space, but must be garaged and not visible to the public, when the vehicle is not in transit.

Sign face means the sign surface where the advertisement is exhibited.

Roof-top sign means a billboard erected on top of a roof of a building.

Traditional billboard means a large outdoor structure, excluding a roof-top sign, which is predominately a sign where the advertisement does not rotate, but is stationary.

(c) *Regulations supplemental to state law.* The provisions of this section are supplemental to state law and shall be construed to complement and be reconciled with state law, where possible. To the extent that there is an irreconcilable conflict with applicable state sign law, rule or regulation, state law shall prevail. In any event, signs facing state roads shall comply with state sign law, rule and regulations in addition to compliance with the provisions

set forth in this section and in relocation and reconstruction agreements pursuant to section 70.20, F.S.

(d) *Location.* The replacement sign permit as described in this section shall apply only to the relocation or replacement, repair or retrofit of existing permitted billboards facing the Palmetto Expressway, State Road 112 and facing that portion of I-75 that extends in an east-west direction that have a legal nonconforming status as of the effective date of this ordinance; provided, however, in no event shall the replacement or relocation of a billboard result in an increase in the number of billboards within the city. The replacement of roof-top billboards is encouraged through relocation and the replacement of interior signs or signs facing residential neighborhoods are preferred. A replacement, repaired, retrofitted or relocated sign may include one or more LED sign faces contingent upon the reduction of sign faces on the existing or replaced sign in a ratio of two sign faces for each LED sign face for traditional billboards. A new monopole billboard that replaces a removed roof-top sign may include one LED sign face without a reduction of sign faces that existed on the existing or replaced sign. Any additional LED sign faces on the replaced roof-top sign will require the reduction of sign faces in a ratio of two sign faces for one LED sign face.

(e) *Sign type.* The billboard shall only be a detached, non-mobile digital sign.

(f) *Maximum number.* No more than two sign faces shall be placed in a monopole structure.

(g) *Maximum size and area.* Billboard signs shall be limited to 672 square feet per face, not including embellishments.

(h) *Minimum setback, spacing and distance separation.* The minimum setback to the monopole structure shall be 15 feet from the surface edge of the right-of-way; five feet from the interior side of the property line; and 30 feet from any lot on which there is a residential building, except as otherwise provided in a relocation and reconstruction agreement. The minimum setback to the monopole structure shall be 30 feet from any residential-zoned

property, except where the face of the sign fronts or orients towards the residential-zoned property, then the spacing shall be at least 300 feet from the residential-zoned property. No sign shall be erected closer than 100 feet from a building or structure used as a house of worship, school, park facility or recreation facility. No billboard shall be erected closer than 1,500 feet to another billboard located on the same side of the street along I-75, or 1,000 feet to another billboard on the same side of the street along Palmetto Expressway or State Road 112 within the city on the same side of the street measured along the center line of the same roadway or street, except that cantilever back-to-back signs shall be considered as one sign for the purposes of spacing.

(i) *Design standards.* Replacement signs shall involve a significant enhancement of the original sign conditions including but not limited to the structure, faces, site, parking, landscaping and perimeter fencing.

(1) *Shape and height.* The shape of the billboard signs shall be back-to back or "V" shape on a monopole base, with their faces oriented in opposite directions located not more than 15 feet apart at the nearest point between two faces, where feasible. The size, shape and height of billboard signs and distance separation requirements shall be according to the state department of transportation permitting requirements. The height of the sign shall not exceed 65 feet, as measured from the crown of the road to the top of the sign face. The ladder shall be no closer than 15 feet above the ground.

(2) *Structure color.* The structural components, support poles and any part of the sign that is not part of the display face is to be painted matte silver with the exception of certain secondary components that could be painted in black to be obscured from view.

(3) *Display colors.* The color, or combination of colors in the advertisement display shall in no way correspond to the colors or combination of colors specified for road traffic signals or traffic signs. The advertisement display shall in no way be similar enough to be mistaken to represent a road traffic sign. Audio speakers or any form of pyrotechnics are

prohibited in association with an automatic changing sign.

(4) *Illumination.*

a. No illumination shall be installed on a billboard that may conflict with abutting or adjacent uses, residential uses or areas, in a manner that such uses are materially restricted or impacted so as to deny the basic enjoyment or implementation of use.

b. All digital billboard displays shall utilize ambient light sensors to automatically adjust its intensity of illumination based on the ambient light conditions occurring at the time of adjustment. Digital billboards shall not operate at brightness levels of more than 0.3-foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. Pre-set distances to measure the foot candles impact vary with the expected viewing distances of each size sign. Measurement distance criteria shall be as follows:

Face size	Distance to be measured from:
12 feet x 25 feet	150 feet
14 feet x 48 feet	250 feet

(5) *Duration.* Any portion of the message to be displayed must have a minimum duration of eight seconds and must be a static display. No portion of the message may flash, scroll, twirl, change color, fade in or out or in any manner imitate movement. The time to completely change from one message to the next is a maximum of two seconds. The change of message shall occur simultaneously for the entire sign. Any off-premises automatic changing sign must contain a default design that will in the event of a malfunction either hold the face of the display on the sign in any one position, turn the face of the display on the sign off or show "full black" on the face of the display on the sign.

(6) *Landscaping and perimeter fencing.* Where feasible, metal picket or black vinyl coated chain-link

fencing are required. Landscaping that is approved through the replacement sign approval process shall be viable and maintained at all times except as further provided in a relocation and reconstruction agreement where mitigation may be considered for the conversion of an existing sign

(j) *Replacement sign permit fee, permit application, review and neighborhood enhancement and park contribution.* The owner or operator of a proposed replacement billboard, with the written consent of the property owner of the property where the sign is to be located, may apply for a replacement sign permit, in an application provided by the city, including all electrical, structural, elevation and color depictions, measurements and other drawings or plans required by the city, for review and approval by the city planning and building divisions. The plans shall include an updated survey and a site plan including landscaping and parking space for vehicles for maintenance purposes and show the location and the setback of all buildings and structures on the property and within a 100-foot radius of the proposed sign location. The application shall provide a signed copy of the lease or easement agreement with the property owner and sign owner or operator or a memorandum of such agreement, if applicable. Within 15 days after the sign owner or operator receives all final governmental approvals, authorizations and permits for the billboard replacement sign, the sign owner or operator shall completely remove the sign and supporting structures to be replaced, prior to the completion of construction of the new sign. Complete removal includes, but is not limited to, the faces, structure, electrical connections and all other appurtenances related to the sign to be replaced. Work pursuant to a replacement sign permit shall require that the site be prepared, cleared or repaired. The replacement sign permit fee shall be $25,000, which shall be paid at the time the application is accepted by the city or as otherwise provided in the relocation and reconstruction agreement. An annual neighborhood enhancement and park contribution of $15,000 for each year that the replacement sign is located on the property is an example of adequate consideration for the reconstruction and relocation agreement.

(k) *Denial of permit.* The city reserves the right to reject a replacement sign permit for failure to comply with the requirements of this section. If the city denies a permit, the city shall provide written reasons for its denial.

(l) *Relocation and reconstruction agreements.* The sign owner and operator shall sign a relocation and reconstruction agreement pursuant to section 70.20, F. S. prior to the issuance of the replacement sign permit in form and substance acceptable to the city and the sign owner and operator.

(m) *Credit for annual recertification fee payment.* For the first ten years from the year in which the new replacement sign is approved, the sign owner is excused from payment of the annual recertification fee for the legally nonconforming replacement billboards.

Sec. 7-~~18~~19. Sign maintenance.

* * *

(d) *Dangerous or defective signs.* No person shall permit or maintain any sign that is in a dangerous or defective condition on premises in the city ~~owned or controlled by him~~. Any such sign shall be removed or repaired by the owner of the sign or by the owner of the premises.

(e) *Unlawful signs.* No person shall install or maintain, or causes to install or maintain, on any premises in the city ~~owned or controlled by him~~ any sign that is prohibited or any sign or any sign that does not comply with the provisions of this ~~chapter~~ regulation or any sign that has not received a valid permit unless exempted therefrom.

Sec. 7-~~19~~20. Removal of improper signs.

* * *

REGULATION NO. 10. SUBDIVISION OF LAND

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(1) *Current inventory of sites designated by the Hialeah*

Historic Preservation Board.

Date of Designation	*Description of Site*	*Location*
*	*	*
2009	Iglesia Universal del Reino de Dios	500 Palm Avenue
2009	New Bethel AME Church	2275 West 5 Way
2010	Milander Park Sign	4800 Palm Avenue
2012	John F. Kennedy Library	190 West 49 Street

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Hialeah, Fla., Land Development Code and Hialeah Code.

The provisions of this ordinance shall be included and incorporated in the Hialeah, Fla., Land Development Code and Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered

to conform to the uniform numbering system of the Hialeah, Fla., Land Development Code and the Hialeah Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled city council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 28th day of August, 2012.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 2 day of September, 2012.

David Concepcion, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".

Rick Scott
GOVERNOR

FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

Hunting F. Deutsch
EXECUTIVE DIRECTOR

June 21, 2012

The Honorable Carlos Hernandez
Mayor, City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

Dear Mayor Hernandez:

The State Land Planning Agency has completed its review of the proposed comprehensive plan amendment for the City of Hialeah (Amendment No. 12-1ESR), which was received on May 22, 2012. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendment if adopted.

The City is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the City. If other reviewing agencies provide comments, we recommend the City consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Bill Pable, AICP, at (850) 717-8534, or by email at bill.pable@deo.myflorida.com.

Sincerely,

James D. Stansbury
Regional Planning Administrator

JDS/bp

Enclosure(s): Procedures for Adoption

cc: Debora Storch, Planning and Zoning Official, City of Hialeah Planning Department
James F. Murley, Executive Director, South Florida Regional Planning Council